

MAKING CENTS

DEATH TAX LAWS COULD CHANGE SOON

-John P. Napolitano, CFP®, CPA, PFS, MST, RLP®



In case you didn't know, there has never been a better time for wealthy people to die in order to avoid a federal death tax. Naturally, I'm not serious about the passing away part – there's rarely a good time for that.

However, because your elected officials in Congress are playing partisan politics and still fiddling with health care, the permanent changes needed to the federal estate tax laws were not made by Dec. 31. Estate planning and tax professionals can only speculate on both the time frame for change and the magnitude of that change.

The federal estate tax exemption has been rising steadily over the past 10 years, reaching a high of \$3.5 million for taxpayers dying in 2009. In 2010, the estate tax is repealed, with a planned reversion to a \$1 million exemption for 2011. The top estate tax rate for 2011 is scheduled to go way up; back to the old 55 percent rate. That's quite a price to pay, and a rate that should encourage most wealthy taxpayers to finally put a solid estate plan in place. It's been 10 years since Congress knew that this law needed fixing, and it still isn't fixed yet.

So as the law reads now, there are no federal death taxes regardless of how much your estate is worth. The rumors floating around Washing-

ton are all over the map. Republicans, once pushing for total and permanent repeal, are not likely to get their way. I hear rumblings that they may be willing to settle for last year's \$3.5 million limit and a lower rate than the expected 55 percent. I haven't heard any specifics from the Democrats, but that party's plan is likely to favor a higher rate and a lower exclusion.

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One would think the January 2010 decedent would be in the clear and owe no federal death taxes, but one possibility includes a law change retroactive to Jan. 1. Even though the federal estate tax only affects a small percentage of the population, last year it collected about \$14 billion for the U.S. Treasury. With our deficits,

wars and health care issues draining funds, don't expect this zero rate to last long.

The federal death tax has always been more significant than your state's death tax, but many states now also take a fairly large chunk. Do not assume that your estate plan is set up to minimize state taxes.

There are many planning techniques to eliminate or significantly reduce death taxes, yet millions of taxpayers are walking around with taxable estates.

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